IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1825 OF 2006

Mr. Nandkumar Ramling Swami ... Petitioner.
V/s.
Sou. Chandrakala Nandkumar Swami & Ors. ...Respondents.

Mr. N.V. Bandiwadekar, for the Petitioner.
Mr. S.R. Shinde, A.P.P. for the State.

CORAM : A.S. OKA, J.
DATE : AUGUST 29, 2006.

P.C. :

1. Heard Shri Bandiwadekar for the Petitioner. By this Petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the Petitioner has taken exception to the Judgment and Order dated 8th February 2005 passed by the learned Judicial Magistrate in favour of the Respondent Nos.1 to 4 herein. By the said order maintenance under Section 125 of the said Code of 1973 was granted. The said order has been confirmed in Revision Application filed by the Petitioner before the Sessions Court.

2. Shri Bandiwadekar, learned Counsel appearing for the Petitioner stated that the challenge in this Petition is confined only to that part of the order by which maintenance has been awarded in favour of the first Respondent. He submitted that all along the case of the Petitioner was that the first Respondent was second wife of the Petitioner and in fact one Sunita is his first wife with whom he has married on 23rd May 1991. He invited my attention to the order dated 5th May 2006, passed by the Judicial Magistrate, First Class by which Application for

maintenance preferred by one Archana N. Swami was dismissed. He submitted that the first Respondent failed to establish that she had lawfully married to the Petitioner.

3. I have considered the submissions. In the reply filed by the Petitioner to the Application for maintenance filed by the Respondent Nos.1 to 4, his contention was that Respondent No.1 was his second wife and prior to his marriage with the Respondent No.1, the Petitioner had married with another woman on 23rd May 1991. The Petitioner placed reliance on a xerox copy of Marriage Certificate which according to him showed that his marriage with one Archana was solemnized on 5th June 1998. The Revisional Court has observed that what was produced was only a xerox copy and therefore, the said document has not been exhibited. The Revision Court has also noted that the Petitioner's mother deposed in favour of the first Respondent.

4. The reliance placed on Judgment and Order dated 5th May 2006 will not help the Petitioner as first Respondent is not a party to the said Judgment. In the Application filed by the 1st to 4 Respondents, the case for grant of maintenance was established on the basis of evidence on record. No case is made out for interference. Petition is rejected.

JUDGE